

REMARKS

Responsive to the restriction requirement imposed in the outstanding Official Action, applicant hereby provisionally elects Group I, claims 1-10, 15-17, 27, and 29, drawn to an isolated, purified or recombinant nucleic acid, with traverse.

It is respectfully submitted that Groups I-III are sufficiently closely related that a search and examination of the entire application can be made without a serious burden.

As noted above, the claims of Group I are directed to an isolated, purified or recombinant nucleic acid encoding for apophotoprotein of pholasin. The claims of Group II are directed to an isolated, purified or recombinant polypeptide comprising apophotoprotein of pholasin or a mutant or variant thereof having substantially the same activity as pholasin. The claims of Group III related to a method for the preparation of a bioluminescent oxidative indicator protein. The method utilizes a bioluminescent oxidative indicator protein. Thus, the present invention relates to a protein capable of bioluminescence, nucleic acids coding for such a protein, and the diagnostic and therapeutic use of these proteins and nucleic acids.

As a result, applicant believes that the claim to the present invention are directed to the subject matter in which a search and examination can be completed within a narrow discipline.

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Reply to Office Action of September 10, 2003
Docket No. 3003-1055

In view of the above, it is believed that an examination of all the pending claims fails to impose an undue searching burden on the Examiner. Thus, it is believed that applicant is entitled to an action on the merits of all of claims 1-30, in their full scope, in the present application. Such action is accordingly respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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